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FISCAL IMPACT STATEMENT

LS 6959

BILL NUMBER: HB 1414

NOTE PREPARED: Feb 2, 2006

BILL AMENDED: Jan 26, 2006

SUBJECT: Human and Sexual Trafficking.

FIRST AUTHOR: Rep. Austin

FIRST SPONSOR: Sen. Delph

BILL STATUS: As Passed House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill has the following provisions:

Human Trafficking Crimes: The bill makes it promotion of human trafficking, a Class B felony, for a person to recruit, harbor, or transport another person to: (1) engage the other person in forced labor or involuntary servitude; or (2) force the other person into marriage or prostitution. It makes it sexual trafficking of a minor, a Class A felony, for certain individuals to sell or transfer custody of a child less than 18 years of age for the purpose of prostitution. It also makes it human trafficking, a Class B felony, for a person to pay for an individual who is forced into forced labor, involuntary servitude, marriage, or prostitution.

Restitution and Civil Actions: It requires a court to order a person convicted of a human and sexual trafficking offense to pay restitution to the victim of the offense. The bill establishes a civil cause of action for victims of human and sexual trafficking offenses.

Assistance to Victims: The bill requires law enforcement officers and the Division of Family Resources to provide certain assistance to victims of human and sexual trafficking offenses.

Other Criminal Sanctions: The bill adds human and sexual trafficking crimes to the list of crimes that:

- (1) invoke certain procedures for evidence concerning protected persons;
- (2) can be a crime of domestic violence;
- (3) can be murder if a person is killed during the commission of the crime; and
- (4) can be a "racketeering activity".

Task Force and Work Group: It establishes the Human and Sexual Trafficking Task Force to examine, analyze, and report on certain issues concerning human and sexual trafficking in Indiana. It also establishes the Human and Sexual Trafficking Work Group to develop written protocols for delivery of services to human and sexual trafficking victims without regard to the immigration status of the victims.

Law Enforcement Training: The bill requires the Law Enforcement Training Board to establish minimum standards for a course of study on human and sexual trafficking that must be required for each person accepted for training at a law enforcement training school or academy and for inservice training programs for law enforcement officers.

Effective Date: July 1, 2006.

Explanation of State Expenditures: *Human Trafficking Crimes and Other Criminal Sanctions:* There are no data available to indicate how many offenders may be convicted of promotion of human trafficking, a Class B felony; sexual trafficking of a minor, a Class A felony; or human trafficking, a Class B felony. If a person knowingly or intentionally kills another person while committing a human and sexual trafficking crime, the offense would be murder, a felony. Additionally, under certain circumstances, a person involved in racketeering activity may commit corrupt business influence, a Class C felony.

Depending upon mitigating and aggravating circumstances, a Class A felony is punishable by a prison term ranging from 20 to 50 years, a Class B felony is punishable by a prison term ranging from 6 to 20 years, and a Class C felony is punishable by a prison term ranging from 2 to 8 years. Murder is punishable by a fixed prison term of 55 years, with not more than 10 years added or subtracted for aggravating or mitigating circumstances.

The average expenditure to house an adult offender was \$20,977 in FY 2005. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The average length of stay in Department of Correction (DOC) facilities for all Class A felony offenders is approximately 9.1 years. It is approximately 3.7 years for a Class B felony, and approximately 2 years for a Class C felony.

Assistance to Victims: The Division of Family Resources of the Family and Social Services Administration will incur additional administrative expenses to administer, along with law enforcement agencies, assistance to human and sexual trafficking victims. Assistance would include appropriate housing, medical and mental health care, food, and protection. The additional expense will depend on the services already available to victims and the extent of the Division's role in administering assistance. The funds and resources required above could be supplied through a variety of sources, including the following: (1) existing staff and resources not currently being used to capacity; (2) existing staff and resources currently being used in another program; (3) authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) funds that, otherwise, would be reverted; or (5) new appropriations. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

Task Force and Work Group: Members of the work group will not receive per diem reimbursement, or traveling or other expense reimbursement. The task force will reimburse traveling and other expenses incurred in connection with a member's duties. The amount of the increase will be based on the distance that members travel and the duties assigned. Task force members are not entitled to per diem reimbursement.

Task Force Background: The task force will be comprised of 17 members. Some of the duties assigned the task force include collecting and organizing data concerning human and sexual trafficking in Indiana; investigating model programs for protecting victims; measuring and evaluating progress in prevention, protection, and provision of assistance for victims, and prosecution of human and sexual traffickers; identifying, analyzing, and making recommendations concerning existing programs to provide services to victims; and evaluating approaches to increase public awareness.

Work Group Background: The work group is comprised of 16 members including the Secretary of Family and Social Services, the Attorney General, the Executive Director of Homeland Security, the Commissioner of Labor, the Chairperson of the Integrated Public Safety Commission, the State Superintendent of Education, five representatives from state or community-based organizations providing services to victims of human and sexual trafficking, and five members appointed by the Governor representing five different federal agencies.

Law Enforcement Training: The Law Enforcement Training Board could incur increased administrative expenses to adopt rules concerning minimal training. Since the Board is required in current law to meet four times a year, the increased cost is expected to be minimal.

Background on Law Enforcement Training: Human and sexual trafficking training must cover examination of laws, identification of human and sexual training, communicating with traumatized persons, therapeutically appropriate investigative techniques, collaboration with federal law enforcement, rights and protection of victims, providing documentation, and community resources to assist victims.

Explanation of State Revenues: *Human Trafficking Crimes and Other Criminal Sanctions:* If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class A, B, C, and D felony, and murder is \$10,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

A crime involving domestic violence is subject to a Domestic Violence Prevention and Treatment Fee of \$50, which is deposited into the State User Fee Fund.

Restitution and Civil Actions: If additional civil actions occur and court fees are collected, revenue to the state General Fund may increase. A civil filing fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

Explanation of Local Expenditures: *Human Trafficking Crimes and Other Criminal Sanctions:* If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Court procedures for protected persons and murder may vary from "typical" cases, resulting in increased use of court and prosecutor time and resources. However, the additional cost associated with these procedures will depend on the actions of the court and court caseload.

County or regional domestic violence fatality review boards may convene if the person who commits the act of domestic violence is charged with a criminal offense that results in final judgment; or is deceased. There are no data available to indicate how often such a review may be needed to investigate human trafficking fatalities.

Assistance to Victims: Law enforcement agencies will administer assistance to victims of human and sexual trafficking along with the Division of Family Resources. Increased costs for local law enforcement will depend on the services available. Also, law enforcement will be responsible for providing a victim with a Declaration of Law Enforcement Officer for Victim of Trafficking Persons Declaration (LEA Declaration, Form I-914 Supplement B).

Explanation of Local Revenues: *Human Trafficking Crimes and Other Criminal Sanctions:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members. However, the amounts would likely be small.

Restitution and Civil Actions: If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 filing fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund.

State Agencies Affected: Department of Correction; Family and Social Services Administration; State Police.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association; Department of Correction.

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